UNITED
NATIONS

CCPR

International Covenant
on Civil and
Political Rights

Distr.
GENERAL

CCPR/C/79/Add.66
24 July 1996

ORIGINAL : ENGLISH

HUMAN RIGHTS COMMITTEE
Fifty-seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

BRAZIL

1. The Committee considered the initial report of Brazil (CCPR/C/81/Add.6) at its 1506th to 1508th meetings, on 10 and 11 July 1996 (see CCPR/C/SR.1506 to 1508). At its 1526th meeting on 24 july 1996, the Committee adopted the following comments:

A. Introduction

2. The Committee expresses its appreciation to the State party for submitting an initial report that was prepared in accordance with the reporting guidelines. The frankness and comprehensiveness of the information contained in the report merit special mention. Appreciation is also expressed for the introductory statement delivered by the delegation, detailing steps taken by the State party to give effect to the provisions of the Covenant after the report was submitted. The Committee welcomed the candid manner in which the high level delegation responded to questions posed by Committee members. The exchange of views with the delegation was constructive and fruitful, although the Committee regrets that some of the questions raised during the examination of the State party's report remained unanswered.

GE.96-17421

B. Factors and difficulties affecting the application of the Covenant

3. The enormous disparities in distribution of wealth between different sections of the population would appear to be a major factor behind phenomena described in the report that are incompatible with enjoyment of the most basic rights protected under the Covenant.

C. Positive aspects

4. The Committee acknowledges the federal government's commitment to adopt measures to enhance protection of the rights provided for under the Covenant. It welcomes legislative and other measures undertaken in recent years by the State party with a view to strengthening the promotion and protection of human rights. In this regard, the Committee takes note of the recent ratification by the State party of international and regional human rights instruments. It also welcomes the launching of the National Human Rights Programme through Decree No. 1904 of 13 May 1996 which is intended to accelerate the process of respect and observance of human rights. The proposed initiatives to restructure and strengthen the role of the Council for the Defence of the Human Person (CDDPH)and the establishment of the Office of the Public Defender as a means of facilitating public access to the judicial system are noted with interest by the Committee. The Committee also supports the measures being taken by the Federal Government that will allow the Attorney General to bring cases of human rights violations to the Federal system of justice.

D. Principal subjects of concern

5. With regard to the State party's obligations under articles 2 and 50 of the Covenant, the Committee is concerned that measures taken to ensure the implementation of Covenant rights in all parts of the federation remain ineffective and inadequate, particularly in view of the vastness of the territory and the remoteness of certain areas. It questions whether the federal government has established the necessary means to ensure that state and local governments in Brazil will protect effectively Covenant rights.

6. The Committee is deeply concerned by cases of summary and arbitrary executions committed by security forces and by death squads, frequently involving members of security forces, against individuals belonging to particularly vulnerable groups that include street children, landless peasants, indigenous people and trade-union leaders.

7. The Committee also expresses its deep concern over the prevalence of torture, arbitrary and unlawful detention, death threats and acts of violence against prisoners committed by security forces and in particular by the military police.

8. The Committee deplores the fact that cases of summary and arbitrary executions, torture, death threats, arbitrary and unlawful detention and violence against detainees and other prisoners are seldom properly investigated and very frequently go unpunished. Members of security forces implicated in gross human rights violations enjoy a high level of impunity, that is incompatible with the Covenant.

9. The Committee is deeply concerned with intolerable conditions in prisons and jails. Such conditions include, first and foremost, overcrowding. The Committee deplores the fact that some convicted persons are not released immediately at the end of their imposed sentences and that fear of reprisals by prison authorities or individual warders inhibits complaints by prisoners and detainees.

10. The Committee is concerned over the practice of trying military police accused of human rights violations before military courts and regrets that jurisdiction to deal with these cases has not yet been transferred to the civilian courts.

11. The Committee is concerned with threats against members of the judiciary that compromise the independence and impartiality of the judiciary which is fundamental to the rights protected under article 14 of the Covenant.

12. The Committee notes with concern that where members of state security forces are accused of human rights violations witnesses are not afforded protection against reprisals, intimidation, threats and harassment.

13. The Committee expresses its concern over the situation of women who, despite some improvements, continue to be the subject of de jure and de facto discrimination, including discrimination in access to the labour market. It shares the concern of the State party that violence against women remains a major problem to be more effectively addressed.

14. The Committee is concerned about the widespread problem of forced labour and debt bondage, especially in the rural areas. The grave problems of child labour and child prostitution remain matters of deep concern of the Committee.

15. The Committee is particularly concerned over the existence of racial and other discrimination against black and indigenous persons. It notes that the Government has been pursuing a process of demarcation of indigenous lands in Brazil as a means of addressing the rights of the indigenous communities, but regrets that the process is far from completion.

E. Suggestions and recommendations

16. The Committee urges the State party to ensure that the provisions of the Covenant are fully implemented in all parts of its territory in accordance with its obligations under articles 2 and 50.

17. The Committee acknowledges the Federal Government's commitment to ensuring that national legislation is in full conformity with the provisions of the Covenant and trusts that it will continue to give high priority to the adoption and implementation of amendments to existing laws and the new legal codes proposed in order to ensure compliance with the State party's international human rights obligations.

18. The Committee welcomes the proposed Bill of Law (n.4.716-A/94) defining torture as a specific crime and the Bill of Law (PL 2801/92) that will transfer from the military to the civilian system of justice the competence to try members of the military police accused of

human rights violations against civilians. It urges the State party to ensure speedy enactment of these bills.

19. The Committee urges the Government of Brazil to take immediate and effective steps to prevent and combat human rights violations by members of the security forces, especially cases of summary and arbitrary executions, torture, excessive use of force and arbitrary detention. These steps should include the education and sensitization of law enforcement officials, particularly the military police, about human rights. Campaigns and programmes should be developed accordingly and the systematic incorporation of human rights education in all training activities ensured.

20. It is imperative that stringent measures be adopted to address the issue of impunity by ensuring that allegations of human rights violations are promptly and thoroughly investigated, that the perpetrators are prosecuted, that appropriate punishments be imposed on those convicted, and that victims be adequately compensated. The State party should ensure that members of the security forces convicted of serious offences be permanently removed from the forces and that those members of the forces against whom allegations of such offences are being investigated be suspended from their posts pending completion of the investigation.

21. Immediate steps should be taken to ensure that convicted persons are released without delay on completion of their sentences.

22. The Committee strongly recommends that all complaints of misconduct by members of security forces be investigated by an independent body and not by the security forces themselves. Formal mechanisms for receipt and investigation of such complaints should be established in all areas of the country and their existence publicized. Such mechanisms must make provision for effective protection of complainants and witnesses against intimidation and reprisals.

23. In light of the statement in the State party's report that the general level of infant mortality is still high the State party must strengthen measures to reduce that level.

24. The Committee recommends that the State party continue its consideration of further ways to improve the effectiveness of the judicial process. The Government should consider the establishment of small claims courts and petty offenses courts that would help to reduce the backlog of cases pending before the courts.

25. The Committee stresses the duty of the State party, under article 10 of the Covenant, to ensure that all persons deprived of their liberty will be treated with humanity and respect for the inherent dignity of the human person. Given the information provided in the State party's report about the intolerable conditions of prisons and jails, especially as regards overcrowding, the State party is under an obligation to adopt measures that will ensure compliance with article 10. Measures to reduce overcrowding might include adoption of alternative sentencing measures that would allow some convicted persons to serve their sentences in the community. To the extent that overcrowding cannot be solved by reducing the number of persons imprisoned or detained, the State party is obligated to commit greater resources to enlarge the capacity of the penitentiary system. Steps must also be taken to

ensure that effective programmes are in place for the social rehabilitation and reformation of prison inmates.

26. The Committee strongly recommends that regular training courses on human rights be held for lawyers, prosecutors and judges.

27. The Committee recommends adoption of legislation that will prohibit discrimination on all the grounds covered by article 2 (1) of the Covenant. The provisions of domestic legislation regulating the legal age of maturity in civil life and the right of every citizen to have access to public service should be reviewed so as to ensure their conformity with the relevant provisions of the Covenant, namely articles 2 (1), 16 and 25.

28. The Committee is of the opinion that the distinction between Brazilian-born and naturalized Brazilian citizens, adopted in article 12 (3) of the Constitution as a criterion of access to certain positions in public life, is incompatible with articles 2 and 25 of the Covenant and needs to be addressed accordingly by the State party.

29. The Committee is of the opinion that multiplicity of trade unions should be possible under the law, as required by article 22 of the Covenant.

30. The Committee recommends that the State party put in place effective enforcement mechanisms that will ensure the implementation of Law N.9.029 prohibiting the requirement of pregnancy and sterilization certificates and other discriminatory practices in employment. It urges that bill n.382-B/91 concerning equality of access to the labour market be adopted without further delay. The Committee trusts that the proposals contained in the Brazilian National Human Rights Plan, relating to the combating of violence against women, will be fully implemented without delay.

31. The Committee urges the State party to enforce laws prohibiting forced labour, child labour and child prostitution and to implement programmes to prevent and combat such human rights abuses. In addition, the Committee exhorts the State party to establish more effective supervisory mechanisms to ensure compliance with the provisions of national legislation and relevant international standards. It is imperative that persons who are responsible for, or who directly profit from, forced labour, child labour and child prostitution, be severely punished under law.

32. The Committee recommends that the State party take immediate steps to guarantee the rights of individuals belonging to racial minorities and indigenous communities, especially with regard to their access to quality health services and education. Such steps should ensure greater school enrolment and reduce the incidence of school drop out. It is the view of the Committee that, in light of article 27 of the Covenant, all necessary measures should be taken to ensure that the process of demarcation of indigenous lands be speedily and justly settled.

33. The Committee recommend that the State party adhere to both Optional Protocols to the International Covenant on Civil and Political Rights.